

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 29.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE N.SESHASAYEE

C.M.A.Nos.577 and 685 of 2008

1. Smt.G.Varalatchumi
2. Master G.Rajasekar - minor aged 4 years
rep. by mother & next friend Smt.Varalatchumi
3. Smt. Jayalakshmi
4. B.Elumalai Reddy.Appellants in C.M.A.No.577 of 2008

1. V.Alagarswamy
2. Smt.A.Sethulakshmi.Appellants in C.M.A.No.685 of 2008

Vs.

Union of India,
Owning Southern Railway
rep. By General Manager,
Chennai-600 003.Respondent in both C.M.As.

Prayer : Civil Miscellaneous Appeal preferred under Section 23 of the Railway Claims Tribunal Act 54 of 1987, against the order dated 22.10.2007 passed by the Railway Claims Tribunal, Chennai Bench in O.A.Nos.17 & 2 of 2004 respectively be modified granting interest at 12% p.a. on the statutory compensation of Rs.4,00,000/- from the date of filing of the claim application viz., 15.03.2004 & 23.01.2004 respectively till the date of payment and the costs of the proceedings.

For Appellants : Mr.T.Raja Mohan

For Respondent
in CMA No.577 of 2008 : Ms.V.Bhavani Subbaroyan

For Respondent
in CMA No.685 of 2008 : Mr.Haribabu

C O M M O N J U D G M E N T

Both the appeals are arising out of different orders passed by the Railways Claims Tribunal by defend claimants out of damages/compensation.

2. C.M.A.No.577/2008 is preferred against the order dated 22.10.2007 passed by the Railway Claims Tribunal, Chennai Bench in O.A.No.17 of 2004 while C.M.A.No.685/2008 challenges the order dated 22.10.2007 passed by the Railway Claims Tribunal, Chennai Bench in O.A.No.2 of 2004.

3. Since a single question of law is involved in both these appeals, they are taken together and are being disposed of by common order.

4. The question involved is : Whether interest is payable on the award amount from the date of claim petition or from the date on which orders are passed by the Railway Claims Tribunal. This is now settled by the Hon'ble Supreme Court in Thazhathe Purayil Sarabi & Others Vs. Union of India and another [AIR 2009 SCC 3098]. After indicating that neither the Railway Claims Tribunal Act, 1987 nor the Railways Act 1989, provides for payment of compensation or rather silent on it, the Hon'ble Supreme Court considered the implications of Sec. 3 of the Interest Act, 1979 as well as Sec. 34 of Code of Civil Procedure it held that interest may be claimed on any amount decreed or awarded for a period during which the money became due and yet remained unpaid to the claimants. After going specifically into the question whether the interest would be payable from the date of claim or from the date of award, the Supreme Court held that while two divergent views are possible, the more consistent view has been the one in favour granting interest from the date of claim.

6. I, therefore, opt to lean in favour of the more predominant or judicially preferred view which the Supreme Court has underscored and hold that the appellants in both these appeals are entitled to claim interest at the rate indicated in their respective awards of Railway Claims Tribunal from the date of the claim petition.

7. Both the appeals are allowed accordingly. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

kmi

To:

1.The General Manager,
Owing Southern Railway,
Chennai-600 003.

2.The Railway Claims Tribunal,
Chennai Bench,
Chennai.

+2ccs to Mr.T.Rajamohan, Advocate, S.R.No. 70744 70745

C.M.A.Nos.577 and 685 of 2008

GJ (CO)
PSI (29/12/2016)



WEB COPY